

REMARKS

Claims 2-9, 12-14, 16-20, 22-28, and 30-45 are now pending in the application. The amendments to many of the claims contained herein are intended to broaden the scope thereof or are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 2-4, 5-11, 14-17, and 21-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman (U.S. Pat. No. 6,401,276) in view of George (U.S. Pat. No. 4,283,811) or Berry et al. (U.S. Pat. No. 3,591,247) or Japanese document (53-32258). This rejection is respectfully traversed.

In response to the interview conducted on April 14, 2005, the Examiner has indicated that Claim 4 would be allowable if rewritten in independent form to include the limitations of the base claims and any intervening claims. Accordingly, Claim 4 has been rewritten and is now believed to be in condition for allowance.

With regard to the remaining claims, Applicants respectfully submit that Sherman, either singly or in combination with George, Berry, or Japanese document '258, fails to teach or suggest the claimed invention as set forth in independent Claims 5, 22, and 35. As the Examiner agreed during the aforementioned interview, Sherman fails to teach, among other things, "a headboard member coupled to said upper platform, said headboard member being raised solely vertically between a first position and a second position in response to said upper platform moving from said raised

position to said lowered position to counterbalance said upper platform and to oppose movement of said upper platform from said raised position to said lowered position.” Sherman is completely silent with regard to such a headboard as claimed, which can be used to counterbalance the upper platform. In fact, Sherman suggests a counterbalancing element 57 that is wholly separate from the small headboard of Sherman. Therefore, Sherman is completely silent with regard to such combination. As the Examiner is aware, MPEP § 2144.04 states that omission of an element with retention of the element’s function is an Indicia of unobviousness. *In re Edge*, 359 F.2d 896, 149 USPQ 556 (CCPA 1966). Accordingly, independent Claims 5, 22, and 35, and those claims depending thereon, are believed to be in condition for allowance. Reconsideration and withdrawal of the present rejection are respectfully requested.

Claims 12, 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman in view of Reppas or Drexhage or Reppas et al. (U.S. Pat. Nos. 4,318,195; 4,597,568; 5,621,930). This rejection is respectfully traversed.

For the reasons set forth above, Applicants respectfully submit that Sherman, either singly or in combination with Reppas, Drexhage, or Reppas, fails to teach or suggest the claimed invention as set forth in independent Claim 12. As the Examiner agreed during the aforementioned interview, Sherman fails to teach, among other things, “a headboard member coupled to said upper platform, said headboard member being raised solely vertically between a first position and a second position in response to said upper platform moving from said raised position to said lowered position to counterbalance said upper platform and to oppose movement of said upper platform

from said raised position to said lowered position.” Additionally, Reppas, Drexhage, or Reppas do not cure the deficiencies of Sherman. Accordingly, Claims 12 and 13 are believed to be in condition for allowance. Reconsideration and withdrawal of the present rejection are respectfully requested.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman in view of either George or Berry et al. or Japanese document (53-32258) as applied to Claim 5 above, and further in view of Jones (U.S. Pat. No. 6,212,710). This rejection is respectfully traversed. Applicants respectfully direct the Examiner’s attention to the arguments set forth above relating to Claim 5, as Claims 18 and 19 depend therefrom. Additionally, Applicants submit that Jones fails to cure the deficiencies of Sherman. Reconsideration and withdrawal of the present rejection are respectfully requested.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman in view of Jones (U.S. Pat. No. 6,212,710). This rejection is respectfully traversed.

As discussed during the interview on April 14, 2005, Jones suffers from the disadvantages discussed in the present specification—namely, the failure of the prior art to provide access to the entire table surface adjacent the bed structure. Accordingly, Applicants submit that Sherman and Jones, either singly or in combination, fail to teach or suggest the claimed invention. Reconsideration and withdrawal of the present rejection are respectfully requested.

Claims 44 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman in view of either George or Berry et al. or Japanese document (53-32258) as applied to claim 35 above, and further in view of Reppas or Drexhage or Reppas et al. This rejection is respectfully traversed.

Applicants respectfully direct the Examiner's attention to the arguments set forth above relating to Claim 35, as Claims 44 and 45 depend therefrom. Additionally, Applicants submit that George, Berry et al., Japanese document '258, Reppas, Drexhage, or Reppas et al. fail to cure the deficiencies of Sherman. Reconsideration and withdrawal of the present rejection are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

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